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**WTO Panel Upholds Section 301**

The Office of the U.S. Trade Representative announced today that a dispute settlement panel of the World Trade Organization has rejected a complaint by the European Union, upholding the WTO-consistency of Section 301 of the Trade Act of 1974.

“We have maintained all along that Section 301 is consistent with our WTO obligations, and are pleased that the panel concurs,” stated U.S. Trade Representative Charlene Barshefsky. “Section 301 has served, and will continue to serve, as a cornerstone of our efforts to enforce our international trade rights.”

Section 301 is the statutory means by which the United States asserts its international trade rights, including its rights under WTO Agreements. The EU claimed that Section 301 violates provisions of the WTO Dispute Settlement Understanding (DSU), the WTO Agreement and the General Agreement on Tariffs and Trade 1994 (GATT 1994). These rules deal with determinations by a WTO Member that another country has violated its WTO rights, as well as any actions taken in response.

“The panel agreed that the United States has in fact acted in accordance with its WTO obligations in every Section 301 determination involving an alleged violation of U.S. WTO rights,” continued Ambassador Barshefsky. “The panel concluded that neither the EU nor the third parties to the dispute had demonstrated otherwise.”

## **Background**

The EU brought its claim late in 1998. The EU complaint was not about the application of Section 301 in any particular case. Rather, the EU argued that the time frames in Sections 301-310 do not allow the U.S. government to wait until the DSB has adopted panel and Appellate Body findings before making its determinations and suspending concessions.

Specifically, the EU claimed that the 18-month deadline in Section 304 for determining whether U.S. agreement rights have been denied does not allow enough time for WTO panel proceedings to finish in all cases, and that U.S. determinations under Section 301 are therefore inconsistent with Article 23 of the WTO Dispute Settlement Understanding.

The EU also challenged the time frames in Sections 305 and 306 for taking action when another Member has failed to implement adverse DSB rulings and recommendations. The EU claimed that the statute requires the United States to make determinations and to take action before WTO panels can confirm non-compliance under Article 21.5 procedures and determine the amount of any suspension of concessions under Article 22 procedures. This, according to the EU, violated DSU Article 23 and GATT 1994 Articles I, II, III, VIII, and XI.

The Panel rejected these claims. It found that the language of the Section 301 statute provides USTR with adequate discretion to comply with WTO rules in all cases. It also found that while the statutory language does not provide assurances as to how that discretion will be exercised, such assurances are provided when the statute is read in light of the Uruguay Round Agreements Act Statement of Administrative Action.

The WTO established the three-member panel on March 2, 1999. Brazil, Canada, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, Hong Kong, India, Israel, Jamaica, Japan, Korea, St. Lucia and Thailand appeared as third parties in the dispute.